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Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: Protocol against the Smuggling of Migrants by Land, Sea and Air

Activities of the United Nations Office on Drugs and Crime to promote and support the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Report of the Secretariat

I. Introduction

1. The present report has been prepared to inform the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, at its ninth session, about the activities undertaken by the United Nations Office on Drugs and Crime (UNODC) to promote and support the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, since the eighth session of the Conference, in October 2016.

2. The Smuggling of Migrants Protocol has a total of 146 parties. Since the eighth session of the Conference, Afghanistan, Côte d'Ivoire, Fiji and Japan have become parties.

3. Through its global and regional programmes, strategies and dedicated projects, UNODC supported Member States in implementing the Protocol using a comprehensive approach. In total, more than 65 Member States received pre-ratification, legislative and strategic support through the Office's field network. Moreover, under the Global Programme against the Smuggling of Migrants, UNODC organized or contributed to 26 legislative assistance and capacity-building activities, reaching over 700 practitioners, government officials and civil society representatives from more than 70 countries. Activities were also implemented under the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants in the 13 beneficiary countries of the initiative (Belarus, Brazil, Colombia, Egypt,

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Kyrgyzstan, Lao People's Democratic Republic, Mali, Morocco, Nepal, Niger, Pakistan, South Africa and Ukraine).

II. Activities to assist States in the implementation of the Smuggling of Migrants Protocol

4. UNODC implements a comprehensive strategy to combat the smuggling of migrants, through actions consisting of the provision of technical assistance for the implementation of the Smuggling of Migrants Protocol, support for intergovernmental and inter-agency cooperation and coordination and enhanced research and data collection.

A. Normative and policy work and inter-agency cooperation and coordination

5. UNODC provided strategic and substantive support to intergovernmental bodies and processes and continued to cooperate closely with other United Nations agencies, as well as regional intergovernmental and non-governmental organizations, to promote the objectives of the Smuggling of Migrants Protocol, ensure that its standards and obligations are better understood and implemented, and foster synergies and partnerships to that end.

1. Support to intergovernmental bodies

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6. During the reporting period, UNODC provided substantive support to two meetings of the Working Group on Smuggling of Migrants, established by the Conference. During its fourth meeting, held in Vienna from 11 to 13 September 2017, the Working Group discussed the use of the Organized Crime Convention to address the smuggling of migrants and the "financial or other material benefit" element of the international definition of smuggling of migrants. To facilitate discussions on that topic, UNODC drafted two technical background papers for consideration by the Working Group. The first background paper provided an overview of past work of the Working Group issues for discussion and offered guidance for response by States (CTOC/COP/WG.7/2017/3). The second background paper examined the "financial and material benefit" aspect of the definition of smuggling of migrants (CTOC/COP/WG.7/2017/4). UNODC also assisted the Working Group by preparing a draft questionnaire for the review of the implementation of the Smuggling of Migrants Protocol, in accordance with Conference resolution 8/2 (CTOC/COP/WG.7/2017/2).

7. The fifth meeting of the Working Group was held in Vienna on 4 and 5 July 2018. At that meeting, the Working Group focused on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant-smuggling operations. UNODC prepared a background paper on that topic that contained a range of suggested issues for discussion by the Working Group, as well as guidance on an effective criminal justice response to the smuggling of migrants, highlighting the importance of international cooperation to strengthen that response (CTOC/COP/WG.7/2018/2). The Working Group also considered the preparation of the questionnaire for the review of the implementation of the Smuggling of Migrants Protocol, in accordance with Conference resolution 8/2. For that purpose, UNODC made available a non-paper containing a draft questionnaire to facilitate the review, which included the suggestions and comments made during the fourth meeting of the Group (CTOC/COP/WG.7/2018/CRP.1).

Commission on Crime Prevention and Criminal Justice

8. To promote the Protocol and share good practices related to its implementation, UNODC co-organized several side events during the twenty-sixth and twenty-seventh sessions of the Commission on Crime Prevention and Criminal Justice. At the twenty-sixth session, in 2017, UNODC held, in collaboration with the German Agency for International Cooperation and the International Organization for Migration (IOM), a side event entitled "Countering trafficking in persons and smuggling of migrants in the Horn of Africa: a multilateral approach". At the same session, a side event was held on the Office's new tools to counter trafficking in persons and the smuggling of migrants, organized in collaboration with the Governments of Italy, Switzerland and the United States of America. During the twenty-seventh session of the Commission, in 2018, UNODC held side events on enhancing knowledge of the smuggling of migrants and on countering the smuggling of migrants in East Africa, as well as a side event on addressing illicit financial flows deriving from the smuggling of migrants in South-Eastern Europe, organized together with the Government of France. In addition, during both the twenty-sixth and twenty-seventh sessions of the Commission, UNODC delivered briefings to Member States on its programme of work related to the smuggling of migrants.

General Assembly

9. UNODC provided substantive support to Member States in discussions on the development and implementation of General Assembly resolutions relating to the smuggling of migrants and the implementation of the Smuggling of Migrants Protocol. A number of resolutions were adopted during the reporting period that called for a greater response to the smuggling of migrants and for UNODC assistance in that regard.

10. At its seventy-second session, in December 2017, the General Assembly adopted resolution 72/196, entitled "Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity". In that resolution, the Assembly called upon Member States to consider ratifying or acceding to the Smuggling of Migrants Protocol, to reinforce international cooperation for preventing and combating the smuggling of migrants and for the prosecution of smugglers while effectively protecting the rights and respecting the dignity of smuggled migrants. The Assembly also called upon UNODC to continue providing technical assistance to Member States in accordance with the Protocol.

11. Also at its seventy-second session, the General Assembly adopted resolution 72/179, on the protection of migrants, in which it called upon States to ensure that their laws and policies in the areas of combating transnational organized crime, including the smuggling of migrants, fully respected the human rights of migrants, and encouraged States to cooperate and to take appropriate measures to prevent, combat and address the smuggling of migrants.

12. At the high-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants, held in New York on 19 September 2016, the Assembly, in its resolution 71/1, adopted the New York Declaration for Refugees and Migrants, in which Heads of State and Government and High Representatives had reaffirmed the importance of the Organized Crime Convention and its Protocols, and encouraged the ratification of, accession to and implementation of relevant international instruments on preventing and combating the smuggling of migrants. They also announced that, with a view to disrupting and eliminating the criminal networks involved, they would review their national legislation to ensure conformity with their obligations under international law on the smuggling of migrants. As a follow-up to the New York Declaration, the General Assembly has adopted resolutions defining the modalities for the intergovernmental negotiations and conferences leading to the adoption of the Global Compact for Safe, Orderly and Regular Migration (General Assembly resolutions 71/280 and 72/244).

Security Council

13. The Security Council met in October 2017 to consider the topic of maintenance of international peace and security and adopted resolution 2380 (2017), in which it reiterated its condemnation, as expressed in resolution 2240 (2015), of all forms of the smuggling of migrants through and from Libyan territory and off the coast of Libya, which undermined further the process of stabilization of Libya and endangered the lives of hundreds of thousands of people. In the same resolution, the Security Council reiterated its call upon Member States to assist Libya, upon request, in building the needed capacity, including to secure its borders and to prevent, investigate and prosecute acts of smuggling of migrants through its territory and on its territorial sea. In addition, the Council made reference to the Organized Crime Convention and the Smuggling of Migrants Protocol, reaffirming that they were the primary international legal instruments to combat the smuggling of migrants and related conduct.

14. Further to the discussions on the smuggling of migrants in Libya, UNODC provided knowledge and expertise to Member States and regional organizations on the requirements, obligations and responsibilities under the Organized Crime Convention and the Smuggling of Migrants Protocol. In November 2016, UNODC signed a cooperation agreement with the European Union Naval Force – Mediterranean Operation Sophia, which is a European Union military operation mandated to disrupt the operations of networks for the smuggling of migrants and trafficking in persons in the South-Central region of the Mediterranean. Under that agreement, UNODC representatives participated in a number of meetings to exchange information related to situational awareness, examine the evolution of related trends and best practices and discuss further ways to harmonize and coordinate the efforts of States and organizations with an interest in irregular migration in the Mediterranean.

2. Participation in inter-agency and regional coordination and cooperation mechanisms

15. During the reporting period, UNODC continued to collaborate and cooperate with international and regional organizations and regional mechanisms that address the smuggling of migrants. At the global level, UNODC contributed to several forums on issues relating to the Smuggling of Migrants Protocol. UNODC representatives moderated a workshop on the use of fraudulent documents in the smuggling of migrants and trafficking in persons at the International Criminal Police Organization (INTERPOL) Conference on Fraudulent Documents, held in October 2017.

16. UNODC continued to provide substantial input on the criminal justice response to trafficking in persons and the smuggling of migrants in the context of large-scale movements of migrants within the framework of the follow-up to the discussions concerning the New York Declaration for Refugees and Migrants and the negotiations on the Global Compact for Safe, Orderly and Regular Migration. In that connection, the Office supported the fifth informal thematic session for the development of the Global Compact, on the topic "Smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims", which was held in Vienna on 4 and 5 September 2017. On the margins of that session, UNODC and IOM hosted a side event entitled "Reflecting on the necessity of international cooperation and supporting new models of cooperation to counter migrant smuggling", organized together with the Government of Turkey, and contributed to a side event on the topic "Human rights perspectives on the smuggling of migrants", hosted by the Office of the United Nations High Commissioner for Human Rights.

17. In March 2018, UNODC organized and hosted informal consultations on the IOM-UNODC Joint Platform on Countering Migrant Smuggling. The Joint Platform is an initiative aimed at pooling and leveraging the two agencies' technical and research expertise on countering the smuggling of migrants, in order to support States in developing comprehensive responses in that regard.

Coordination and cooperation with regional organizations and processes

18. UNODC contributed to a better understanding of the objectives and obligations set out in the Smuggling of Migrants Protocol through its participation in a series of events, including the Council of Europe Conference on Smuggling of Migrants held in June 2017 and the consultative meeting for the mid-term review of the European Agenda on Migration organized by the European Commission in July 2017.

19. As part of its cooperation with regional organizations, UNODC representatives participated in technical meetings, including: (a) the twelfth Annual Meeting of National Experts on Joint Investigation Teams, composed of experts from European Union member States, which focused for the first time on cooperation in cases of the smuggling of migrants; (b) a meeting convened by the European Union Agency for Law Enforcement Training and the European Commission in June 2016 to map the need for training to address the smuggling of migrants in Europe; and (c) the European Border and Coast Guard Agency (Frontex) annual training conference on educational technology for border and coast guard training, held in October 2017.

20. UNODC continued to be an active partner of the African Union-Horn of Africa initiative, as well as an observer of the Euro-African Dialogue on Migration and Development (Rabat Process) and the European Union-Horn of Africa Migration Route Initiative (Khartoum Process), both of which are aimed at addressing, among other issues, the smuggling of migrants. In addition, UNODC contributed substantially to a trilateral thematic meeting of representatives of the African Union-Horn of Africa Initiative, the Khartoum Process and the Rabat Process on trafficking in and smuggling of persons, focusing on unaccompanied minors. The meeting was organized by the International Centre for Migration Policy Development and held in Luxor, Egypt, in November 2017. UNODC representatives also took part in the Joint Valletta Action Plan Senior Officials Meeting, held in Valletta on 8 and 9 February 2017, at which officials from States in Africa and Europe reiterated the importance of stepping up the fight against trafficking in persons and the smuggling of migrants in the context of the Joint Valletta Action Plan. UNODC has been contributing directly to the implementation of the Valletta Action Plan, in particular its priority domain 4, on preventing and countering irregular migration, the smuggling of migrants and trafficking in persons, through activities carried out under its strategy to address the smuggling of migrants in the Mediterranean and its regional strategy for combating trafficking in persons and the smuggling of migrants in West and Central Africa (2015–2020). In the framework of the Rabat Process and the Khartoum Process, UNODC has implemented over 67 projects and activities.

21. Since July 2015, UNODC has been a member of the North Africa Mixed Migration Task Force, which is aimed at promoting a human rights-based approach to ensure the protection of people moving in mixed and complex flows along the north-eastern Africa migratory route, as well as in North Africa. The Task Force is designed to foster collaborative approaches among key stakeholders to address the protection and other issues faced by persons using those routes, with a view to informing policy and programme development.

22. UNODC is a full member of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime and the ad hoc working group on human trafficking, which strengthens the regional response to the smuggling of migrants and trafficking in persons and related transnational crime. Along with approximately 48 other members, UNODC actively participates in regional dialogues and initiatives, such as the drafting of policy guides on victim identification and the protection of victims of trafficking in persons. Furthermore, the Bali Process has endorsed UNODC projects such as the interregional Voluntary Reporting System on Migrant Smuggling and Related Conduct, which is aimed at strengthening the collection and sharing of data on the smuggling of migrants across the Asia and the Pacific region.

23. In advancing comprehensive national strategies, policies and actions to tackle trafficking in persons and the smuggling of migrants, UNODC works with several United Nations entities, including IOM, the United Nations Children's Fund and the

Office of the United Nations High Commissioner for Refugees, as well as with regional organizations such as the Organization of American States (OAS), the Inter-American Commission on Human Rights, the Central American Integration System, the Caribbean Community and the Institute for Public Policy on Human Rights of the Southern Common Market (MERCOSUR). UNODC also works with the Ibero-American Network of Specialized Prosecutors against Trafficking in Persons and the Smuggling of Migrants of the Ibero-American Association of Public Prosecutors to strengthen judicial cooperation, promote the exchange of good practices and contribute to efforts to increase investigations, prosecutions and convictions in relation to such crimes.

Global Migration Group

24. UNODC is an active member of the Global Migration Group, the inter-agency group that brings together heads of agencies to promote the wider application of all relevant instruments relating to migration and to encourage the adoption of more coherent, comprehensive and coordinated approaches. UNODC has remained active in and committed to the Group by contributing to joint Group statements, papers and events on migration-related issues, including the Summit for Refugees and Migrants, held on 19 September 2016, the follow-up to the New York Declaration for Refugees and Migrants and the development of the Global Compact for Safe, Orderly and Regular Migration, and the consultations held in follow-up to the Secretary-General's report on making migration work for all (A/72/643). UNODC also participated in the meetings of the principals of the Global Migration Group in 2017 and 2018, during which heads of organizations discussed the Group's support to those parallel but interrelated processes.

25. Moreover, UNODC is an active member of the Global Migration Group's Working Group on Migration, Human Rights and Gender, which focuses on the human rights of smuggled migrants and on the right of access to justice for migrants who are victims of crime. In that framework, UNODC contributed substantially to the publication entitled *Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations*, which includes guidance on the protection of migrants within large and/or mixed movements. It also contains advice to States on how to operationalize the international human rights framework governing the protection of migrants in vulnerable situations.

26. In 2016 and 2017, as part of the consultation phase in the development of the Global Compact for Safe, Orderly and Regular Migration, UNODC was assigned the lead role in drafting the Global Migration Group's input to the Secretary-General's issue brief for the fifth informal thematic session for the development of the Global Compact, on the smuggling of migrants, trafficking in persons and contemporary forms of slavery, and the concept note for the Office of the President of the General Assembly, for the same session. UNODC also supported the second informal interactive multi-stakeholder hearing for the development of a global compact on migration, held in Geneva on 11 October 2017, and moderated a panel discussion at the hearing on the topic "Smuggling of migrants, trafficking in persons and contemporary forms of slavery".

3. Development of normative and policy guidance and tools

27. During the reporting period, UNODC continued to produce standard-setting, specialized materials for practitioners, including the issue paper entitled *The Concept of "Financial or Other Material Benefit" in the Smuggling of Migrants Protocol* (2017), which was developed in consultation with more than 100 experts in 13 countries. In the issue paper, it is examined whether the definition or criminalization of the smuggling of migrants at the national level includes the "financial or other material benefit" element, as well as what is considered a form of payment under national law. It also contains an examination of whether instances of national legislation provide for a humanitarian clause that excludes from prosecution persons

who help irregular migrants for altruistic reasons, and how the different approaches to those issues influence evidence-gathering and judicial cooperation.

28. In 2017, UNODC launched the Smuggling of Migrants Knowledge Portal, aimed at facilitating the dissemination of information regarding the implementation of the Smuggling of Migrants Protocol. The Portal is composed of three databases: a case law database, containing, as at May 2018, 776 cases from 41 jurisdictions; a Database of Legislation, containing, as at May 2018, 245 pieces of legislation representing 93 countries; and a bibliographic database containing 333 entries. The Portal is aimed at supporting States in improving their knowledge of national prosecution practices and legislation to counter the smuggling of migrants. UNODC has been using the case law database as a source of data to develop additional normative and policy guidance documents and technical assistance tools. Furthermore, the Office has undertaken a study of cases contained in the database to examine the role of women as perpetrators in the smuggling of migrants.

B. Promoting and supporting the implementation of the Smuggling of Migrants Protocol through technical cooperation

29. With regard to technical assistance, UNODC, in response to requests from Member States, provides expertise in the form of resources on countering the smuggling of migrants on the following key topics: (a) legislative assistance; (b) strategy development; (c) criminal justice responses; (d) international cooperation; (e) data collection and research; (f) prevention and awareness-raising; and (g) assistance and support to migrants who have been the object of smuggling, and other vulnerable migrants.

30. Under its Global Programme against the Smuggling of Migrants, UNODC organized or substantively contributed to 20 major technical assistance activities during the reporting period, including legislative assistance and capacity-building activities. Through those activities, assistance was provided to more than 80 countries and more than 570 criminal justice practitioners and government officials were trained to effectively investigate and prosecute cases of smuggling of migrants. Moreover, specific country and regional programmes carried out activities to counter the smuggling of migrants and provided mentoring and tailor-made technical assistance in that regard.

31. Under the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants, UNODC delivered more than 50 technical assistance activities in 12 partner countries over the last two years.

32. UNODC added to its e-learning programme new language versions of the three following modules dedicated to the subject of the smuggling of migrants: (a) introduction to the smuggling of migrants; (b) investigative approaches to the smuggling of migrants; and (c) investigative techniques to counter the smuggling of migrants. Those modules are now available in Bahasa, Burmese, Chinese, English, Khmer, Lao, Macedonian, Serbian, Sinhalese, Thai, Urdu and Vietnamese.

1. Legislative assistance and strategy development

33. UNODC continued to provide Member States with tailor-made, specialized legislative assistance to help develop effective national legislation in line with the requirements of the Smuggling of Migrants Protocol. The Office carried out assessments of legislative needs and supported the drafting of legislation to operationalize the Protocol. Furthermore, the Office provided legal advice and assistance to legislative drafters and judicial officials, including judges and prosecutors, by analysing gaps in legislation and conducting legislative drafting workshops.

34. At the request of the Government of Maldives, UNODC completed an assessment mission to gather information on indicators of smuggling of migrants and

on the profile and modus operandi of smugglers, and to identify loopholes and weaknesses in the national framework. The assessment involved a broad range of actors, including both government representatives and representatives of non-governmental organizations, who were consulted during group meetings and individual interviews. The assessment was followed by a legislative drafting workshop, held in December 2017, to support the Government in finalizing a draft law to prevent and combat the smuggling of migrants. UNODC then reviewed that draft law, with the purpose of reflecting the principles and spirit of the Smuggling of Migrants Protocol, and drafted a series of recommendations to lawmakers aimed at supporting the consideration of the draft law by Parliament in the first quarter of 2018.

35. In the framework of the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants, UNODC also conducted gap and needs assessments in the 13 countries of the initiative (see para. 3 above), including interviews with stakeholders in those countries. Thirteen reports on the current situation with regard to trafficking in persons and the smuggling of migrants were prepared, containing recommendations and a suggested implementation plan for government authorities to develop action plans, including legislative amendments. For example, UNODC supported Egypt in launching its new law on combating illegal migration and the smuggling of migrants by helping to present the law and discuss challenges and good practices in prosecuting the smuggling of migrants with over 100 relevant government officials and practitioners.

36. UNODC also supported the development of regional strategies to address the smuggling of migrants. In 2016, UNODC conducted a regional workshop on the smuggling of migrants for member States from the Southern Africa Development Community. During the workshop, which took place in South Africa, guidance was provided on the development of a plan of action to combat the smuggling of migrants. Participants attended from 11 of the 15 States members of the Southern Africa Development Community (Angola, Botswana, Eswatini, Lesotho, Malawi, Madagascar, Namibia, Seychelles, South Africa, Zambia and Zimbabwe). More recently, UNODC, in cooperation with INTERPOL, organized a regional expert group meeting on improving and harmonizing regional coordination and cooperation in preventing and combating the smuggling of migrants, while protecting the rights of smuggled migrants in East Africa. The meeting was held in Mombasa, Kenya, from 13 to 15 December 2017. Participants from eight countries (Comoros, Kenya, Rwanda, Seychelles, South Sudan, Sudan, Uganda and United Republic of Tanzania), as well as representatives of the East African Community and INTERPOL, attended the meeting. An important outcome of the meeting was the drafting of the first version of a regional plan of action for East Africa to counter the smuggling of migrants, which will be further discussed in upcoming regional forums. The first version of the regional plan of action was presented in May 2018, at a side event during the twenty-seventh session of the Commission on Crime Prevention and Criminal Justice.

2. Strengthening criminal justice responses

37. UNODC continued to carry out a wide range of technical assistance activities aimed at strengthening the criminal justice response to the smuggling of migrants in all regions. In particular, the Office offered training courses for practitioners involved in addressing the smuggling of migrants, including border control personnel, immigration and law enforcement officers, prosecutors, judges and lawyers.

38. In Mexico, UNODC strengthened the capacities of 200 law enforcement officials from Canada, Mexico and the United States to detect, investigate and prosecute the smuggling of migrants and to dismantle networks. Through an innovative training methodology based on real case scenarios and interactive simulation exercises, UNODC promoted coordination and cooperation among federal and local authorities, as well as international cooperation with customs and border patrol agencies; encouraged a human rights-based and gender-sensitive approach to dealing with the smuggling of migrants; and trained practitioners to identify the smuggling of migrants and use appropriate tools and knowledge to provide assistance

to smuggled migrants while conducting a criminal investigation. Tablets with digital materials, personalized evaluations and quizzes were distributed to follow up on the performance of each participant.

39. In Africa, UNODC continued to support the strengthening of criminal justice responses to combat the smuggling of migrants. In the Middle East and North Africa, including in Egypt, Iraq, Jordan, Lebanon and Libya, UNODC trained over 230 law enforcement and criminal justice practitioners in identifying and investigating cases of smuggling of migrants and trafficking in persons, prosecuting offenders and dismantling criminal networks engaging in such criminal activities. During that training, the Office highlighted the importance of regional and international cooperation to combat both crimes, as well as the need to uphold the rights of trafficking victims and smuggled migrants. In October 2017, UNODC organized a training workshop in Egypt to strengthen the capacity of prosecutors to investigate and prosecute crimes of smuggling of migrants. The Office also delivered specialized training courses on addressing the smuggling of migrants. One of the courses was organized in South Africa on the topic of smuggling of migrants by air, focusing on document fraud investigations. It was attended by immigration officials and criminal justice practitioners from six countries in Southern Africa (Botswana, Lesotho, Malawi, Namibia, South Africa and Zimbabwe). A similar workshop was held in 2016 in Ghana and both served to support States in implementing the Smuggling of Migrants Protocol and to enhance the participants' understanding of the smuggling of migrants as well as their capacities to detect fraudulent documents used for the commission of that crime, in order to conduct successful investigations to dismantle organized criminal networks benefiting from the smuggling of migrants.

40. Under the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants, UNODC assisted beneficiary countries in strengthening their criminal justice responses to the smuggling of migrants. Needs assessments that were carried out revealed a number of recurring themes and barriers to investigations into the smuggling of migrants, such as resource constraints and competing priorities. UNODC delivered 38 activities addressing both trafficking in persons and the smuggling of migrants and 16 activities addressing only the smuggling of migrants. The activities ranged from capacity-building training for practitioners and officials, expert group meetings on good practices and links with other crimes, and the development of tailor-made curricula in cooperation with national training academies. A workshop for travel agents, tour operators and overseas employment promoters, aimed at combating trafficking in persons and smuggling of migrants, as well as helping to prevent abusive and fraudulent recruitment practices, was organized in Pakistan in September 2017.

3. Promoting international cooperation

41. Close cooperation among States is essential for effectively combating the smuggling of migrants, given the transnational nature of the crime. Accordingly, in addition to conducting technical assistance activities focused on capacity-building at the national level, including a component on regional and/or international cooperation, UNODC undertook activities aimed at fostering direct cooperation between States. In particular, UNODC organized and participated in relevant information exchanges and conferences on the smuggling of migrants at both the regional and global levels.

42. Several regional, transregional and subregional workshops were organized during the reporting period, including a series of regional workshops focusing on the smuggling of migrants by sea. One such regional workshop, focusing on the Indian Ocean and South Asia regions, was organized in India in November 2016. Participants included front-line officers, criminal justice practitioners and policymakers from Bangladesh, India, Indonesia, Maldives and Sri Lanka; they were invited to take stock of current challenges in addressing the smuggling of migrants, exchange good practices with a view to building capacity along the routes concerned, and develop plans for future engagement at the regional, subregional or bilateral levels, including

with regional and international organizations. Another regional workshop was organized in Malta in May 2017; it was focused on promoting judicial cooperation against the smuggling of migrants by sea in the Mediterranean region. The workshop was attended by 40 prosecutors and judges from Algeria, Egypt, France, Greece, Italy, Lebanon, Libya, Malta, Morocco, Tunisia, Turkey and the United States, as well as representatives of the European Commission and the European Union Naval Force-Mediterranean. During the workshop, a mock trial was held, which served to strengthen the use of the Organized Crime Convention and the Smuggling of Migrants Protocol for undertaking international judicial cooperation against the smuggling of migrants by sea in the Mediterranean. In September 2017, UNODC also organized a subregional workshop on international cooperation and mutual legal assistance in smuggling of migrants cases, which was attended by law enforcement officers and prosecutors from Egypt, Libya, the Sudan and Tunisia. Regional and international cooperation instruments were presented, along with the UNODC Mutual Legal Assistance Request Writer Tool and good practices in joint investigations.

43. UNODC also carried out a series of regional expert group meetings on cross-border criminal investigations and prosecutions and the disruption of illicit financial flows deriving from the smuggling of migrants in South-Eastern Europe. The meetings were attended by 155 policymakers and practitioners from 14 countries. The participants included prosecutors, law enforcement authorities, government officials from the ministry of finance and representatives of banking institutions, international and regional organizations and non-governmental organizations dealing with migration-related issues. The meetings allowed for discussion and the sharing of experiences and examples of cooperation in investigating and prosecuting the smuggling of migrants by using special investigative techniques and financial cross-border investigations. An outcome of the meetings was the adoption of a set of final conclusions and a model protocol for cross-border cooperation in combating the smuggling of migrants and conducting financial investigations and confiscation of assets derived from the smuggling of migrants. During the twenty-seventh session of the Commission on Crime Prevention and Criminal Justice, a side event was organized, together with the Government of France, to present the conclusions of the meetings and the model protocol for cross-border cooperation.

44. UNODC also continued to support the work of networks of practitioners. In 2017, UNODC organized the third meeting of the Ibero-American Network of Specialized Prosecutors against Trafficking in Persons and Smuggling of Migrants, which contributed to strengthening judicial research and cooperation and the sharing of good practices. The meeting was attended by 20 public prosecutors, 3 crown prosecutors and several experts and investigators from 17 countries. At the meeting, a declaration was signed on the use of regional cooperation tools, including UNODC tools. In addition, the inter-institutional protocol to strengthen investigations and the care and protection of victims of trafficking in persons and the smuggling of migrants, adopted by the Ibero-American Association of Public Prosecutors, was updated and revised. UNODC also supported the organization of the sixth plenary meeting of the Network of West African Central Authorities and Prosecutors, held in Niamey from 8 to 11 November 2016, at which the smuggling of migrants as a form of transnational organized crime was addressed for the first time. The participants, representing 18 countries, shared experiences and explored measures and strategies that could be employed to jointly address the smuggling of migrants in the region, including international cooperation tools and instruments, such as mutual legal assistance, extradition, asset recovery and joint investigation teams.

45. UNODC has also undertaken innovative activities to strengthen international cooperation. Under the project on strengthening the transnational response to smuggling of migrants and maritime crime in West, North and East Africa, a prosecutor from Nigeria has been deployed to the Public Prosecutor's Office in Palermo and Catania, Italy. The prosecutor interacts informally with Italian prosecutors, provides background knowledge on patterns and forms of the smuggling of migrants and facilitates communication and legal cooperation between the

authorities of the two countries, as well as with foreign liaison magistrates based in Italy and with the Network of West African Central Authorities and Prosecutors. On the basis of that experience, UNODC is currently exploring the possibility of deploying experts from countries in Africa to Greece, Italy and Spain. In Mexico, UNODC organized a training workshop for practitioners from Mexico and the United States, during which practical exercises were conducted at the border crossing point, encouraging a better understanding of the crime and promoting interaction, information-sharing and international coordination among peers in an operative environment.

4. Data collection and research

46. An effective response to the smuggling of migrants requires sound knowledge of the existing situation, including reliable data, as a basis for policy- and decision-making, the allocation of resources and the identification of technical assistance needs. UNODC directly supports States in developing their capacity to collect and analyse information and data relating to the smuggling of migrants.

47. In 2018, UNODC published the *Global Study on the Smuggling of Migrants 2018*, which is based on an extensive review of existing data and literature. The study contains detailed information about key smuggling routes, the magnitude of the phenomenon, the profile of smugglers and smuggled migrants, the modus operandi of smugglers and the risks that smuggled migrants face. It shows the variety of land, air and sea routes used by smugglers, and presents the risks faced by migrants to violence, theft, exploitation, sexual violence, kidnapping and even death along many routes. The study also pinpoints the need to improve data-collection systems at the national, regional and international levels and to maintain adequate administrative records, conduct appropriate surveys and apply statistical methodologies and qualitative studies to monitor patterns and routes used in the smuggling of migrants.

48. In the framework of the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants, UNODC has participated in improving data collection in the 13 selected countries (see para. 3 above) through the conduct of needs and assessment reports, which contain an annex providing primarily quantitative data as a baseline against which Governments can measure progress in strengthening the response to the smuggling of migrants. More specifically, in South Africa, UNODC is conducting, in collaboration with the Department of Home Affairs, a countrywide data-collection exercise that will lead to the development of a report on smuggled migrants containing profiles of smuggled migrants by age, gender, nationality and country of origin and identifying the main smuggling routes to South Africa. UNODC has also initiated work on the preparation of a study on the smuggling of migrants from Nepal, which will contain an analysis of the profile of smugglers and their modus operandi, as well as the vulnerable communities.

5. Crime prevention and awareness raising

49. The Smuggling of Migrants Protocol requires States to undertake prevention measures, including: (a) exchange of information; (b) strengthening border controls to detect the smuggling of migrants; (c) ensuring the security and control of travel or identity documents; (d) being able to verify the legitimacy and validity of such documents in a timely manner; providing training and technical cooperation; and (e) initiating initiatives to raise public awareness.

50. UNODC continues to implement, in collaboration with the Government of Mexico, the campaign entitled "Smuggling of migrants: #deadlybusiness", which was launched in 2015. The campaign is now being disseminated in international forums, such as the Ibero-American Association of Public Prosecutors, OAS and the Conference of Parties to the Organized Crime Convention. The campaign has been endorsed by the 11 States members of the Regional Conference on Migration, as well as by Chile and Spain. The campaign is aimed at three different audiences: law enforcement authorities, whose awareness of the human rights of migrants must be

increased; potential migrants, who must have information on the risks of using the services of smugglers for journeys by land, sea and air; and the media, who play a central role in bringing that information to migrant communities of origin and transit. All the communication tools were initially developed in Spanish and have been translated into Arabic, English, French and Portuguese. New materials for front-line officers, transit communities and migrants from Mexico in the United States are being developed.

6. Protection of and support for smuggled migrants

51. The purpose of the Smuggling of Migrants Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among State parties to that end, while protecting the rights of smuggled migrants. Although the Smuggling of Migrants Protocol, does not create new obligations related to the protection of migrants rights, it stresses that each State party should take, in implementing the Protocol, all appropriate measures to preserve and protect the rights of persons who have been the object of smuggling of migrants as accorded under international law, international human rights law and international humanitarian law, and in particular the Convention relating to the Status of Refugees, adopted in 1951, and the principle of non-refoulement.

52. In that regard, UNODC promotes the protection of and support for smuggled migrants as an essential component of national responses to the smuggling of migrants; those aspects are continuously addressed in the Office's capacity-building activities. In 2017, UNODC organized a national conference in the Niger on the rights of migrants in the framework of an awareness-raising day on the implementation of the 2015 law on the smuggling of migrants.

53. In 2016, UNODC delivered training courses on protection of and assistance for smuggled migrants in Jordan and Lebanon. The courses were centred on interactive sessions and in-depth group work that addressed the definitions of and differences between the smuggling of migrants and trafficking in persons, how to deal with vulnerable migrants, proactive and reactive investigations, the effect of trauma on the behaviour of smuggled migrants and investigation techniques.

54. In Mexico, UNODC developed an operational manual of procedures for the detection and attention of smuggled migrants, which includes practical information to detect smuggled migrants, to provide them with assistance and to promote inter-institutional coordination. A workshop for federal and local institutions, non-governmental organizations and human rights advocates was organized to test the manual and gather inputs from its final users.

55. Under the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants, UNODC organized calls for proposals for the funding of civil society organizations that provide direct assistance and reintegration services to smuggled migrants and other vulnerable migrants. In Brazil, the selected organization will provide material, legal and administrative assistance and referral for migrants in vulnerable situations. The organization will also conduct professional training sessions for vulnerable migrants and develop activities for their integration. In Mali, the selected organization will provide protection and assistance to migrants in vulnerable situations (shelter, material, legal and medical assistance, etc.), as well as reintegration assistance, through the development, in coordination with the beneficiaries, of reintegration and financial projects.

III. Conclusions

56. In promoting the implementation of the Smuggling of Migrants Protocol, in particular by providing technical assistance to Member States and fostering inter-agency cooperation, UNODC has consistently sought the active participation of relevant stakeholders at the international, regional and national levels.

57. Despite the progress made, the smuggling of migrants remains a pressing global issue, affecting all regions. UNODC will continue its efforts to promote and support the implementation of the Smuggling of Migrants Protocol, and work jointly with Member States and international organizations, civil society and migrants towards making the fight against the smuggling of migrants in all its forms ever more effective. In that regard, UNODC will continue to develop and support innovative methods to better train practitioners and improve awareness-raising.

58. In the framework of the Global Migration Group, and the forthcoming United Nations migration network, UNODC aims to contribute to the development and future implementation of the Global Compact for Safe, Orderly and Regular Migration, as well as to the consultations to be held in follow-up to the Secretary-General's report on migration (A/72/643).

59. UNODC will continue to develop the smuggling of migrants case law database and will issue new publications, such as an issue paper on the role of women in the smuggling of migrants.

60. UNODC will also continue delivering tailor-made capacity-development assistance at the national and regional levels, including on specific issues such as financial investigations in smuggling of migrants cases, addressing the increased need for protection of and assistance for migrants and refugees vulnerable to trafficking in persons, and the smuggling of migrants by sea and air.